IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 1706 of 2005

Between:

G.N. Reddy S/o Joga Reddy
R/o 5-12-312, Priyadarshini Colony, Nalgonda, Nalgonda

District

..... PETITIONER

AND

1. The Regional Manager, Khammam Region, Khammam

District
2 The Depot Manager, APSRTC., Madhira Bus Depot,

Khammam District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not releasing the balance gratuity to the petitioner is illegal, arbitrary and unjust and consequently direct the respondents to pay the balance gratuity amount of Rs. 78,380/- to the petitioner.

Counsel for the Petitioner:MR.G.RAVI MOHAN

Counsel for the Respondent Nos.1 and 2: SMT.P.RAJANI REDDY

The Court at the admission stage made the following O R D E R:

The petitioner joined the service of the respondents' Corporation as conductor on 23.10.1970 and his services were regularized on 01.04.1975. He was removed from service on 06.07.1978 alleging cash and ticket irregularities. Aggrieved by the same, the petitioner raised an Industrial Dispute No.85 of 1981 before the Additional Labour Court, Hyderabad wherein the order of removal from service was set aside and directed the respondents to reinstate the petitioner into service with continuity of service, and attendant benefits with fifty per cent back wages by Award dated 02.11.1982. The said award has become final, as the same is not questioned. As per the award, he was reinstated into service. After reaching the age of the superannuation, he retired from service on 31.10.2002. Thereupon, the petitioner requested the 2nd respondent to pay all the service benefits including the gratuity, but, however, respondents has paid only Rs.51,524/-. Hence this writ petition.

The learned Counsel for the petitioner contended that the award of the Additional Labour Court, Hyderabad is very clear the petitioner is entitled for notional benefits and, therefore, seeks for appropriate directions.

The learned Standing counsel for the respondents' Corporation opposed the application.

The petitioner was removed from service on 06.07.1978. Therefore, he raised an Industrial Dispute before the Tribunal. The Tribunal by its award dated 02.11.1982 directed the respondent therein to reinstate the petitioner into service with continuity of service and attendant benefits. But, however, it

awarded fifty per cent of back wages to the petitioner.

In similar circumstances, this Court referred to a decision reported in **"*M.Rama Rao V. Asst. Traffic Manager, APSRTC, Hyderabad*"** wherein it was held as under:

> "In the result, I dispose of the writ petition directing the respondents to compute the gratuity payable to the petitioner taking into account the out of employment period i.e., between 22-04-1967 and 26-06-1985 into account and after so computing to pay the balance of gratuity to the petitioner within a period of two months from the date of receipt of a copy of this order."

Since the Industrial Tribunal has granted to the petitioner the continuity of service, it should be held that for all practical purposes the petitioner should be deemed to have been in continuous service all through. If that is so, there is no justification to exclude the date of removal for the purpose of computation of the gratuity payable to the petitioner.

In the result, the writ petition is disposed of directing the respondents to compute the gratuity payable to the petitioner taking the out of employment period and also the service which he rendered prior to his removal into account and after so computing, to pay the balance of gratuity to the petitioner within a period of two months from the date of receipt of a copy of this order. In the circumstances, no costs.

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K.C. BHANU, J

Dt.14.03.2005

usd

To

1. The Regional Manager, Khammam Region, Khammam District
2 The Depot Manager, APSRTC., Madhira Bus Depot, Khammam District

3 Two CD copies

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